

AMENDED IN SENATE AUGUST 20, 2010
AMENDED IN SENATE AUGUST 17, 2009
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AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 291

Introduced by Assembly Member Saldana
(Coauthors: Assembly Members Blumenfield, Ruskin, and Swanson)

February 13, 2009

~~An act to add Section 30825 to the Public Resources Code, relating to coastal resources. An act to amend Section 9010 of the Fish and Game Code, relating to commercial fishing.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as amended, Saldana. ~~Coastal resources: coastal development permits: penalties. Commercial fishing: lobster management.~~

Existing law prescribes the construction and dimensions of a wire lobster trap.

This bill would revise the prescribed dimensions of wire lobster traps, and would add provisions relating to the use of a wire to hold the escape gap in place.

~~The California Coastal Act of 1976 requires any person undertaking development in the coastal zone to obtain a coastal development permit issued by the California Coastal Commission in accordance with prescribed procedures. The act authorizes civil liability to be imposed~~

~~on any person who performs or undertakes development that is in violation of the act or that is inconsistent with any previously issued coastal development permit, subject to specified maximum and minimum amounts, varying according to whether the violation is intentional and knowing.~~

~~The bill would prohibit the commission, with exceptions, from filing as complete, or acting upon, an application for a coastal development permit for a project on property that is subject to an existing violation case for which a violation notification letter has been sent, or a cease and desist order, restoration order, or notice of violation has been issued or recorded until the violation has been resolved. The bill would authorize the commission to resolve any unresolved dispute between the executive director and an applicant regarding the implementation of the above provision at a noticed hearing. This bill would authorize the commission to file as complete an application for a coastal development permit for development on such a property if the violation is de minimis, as defined. This bill would prohibit the commission from taking action on the application until the de minimis violation has been resolved, as determined by the executive director.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares that*
- 2 *California's spiny lobster fishery is an important component of*
- 3 *California's marine ecosystem, as well as an important source of*
- 4 *jobs for California fishermen and fisherwomen and food for*
- 5 *consumers.*
- 6 SEC. 2. *Section 9010 of the Fish and Game Code is amended*
- 7 *to read:*
- 8 9010. (a) Subject to Article 5 (commencing with Section 8250)
- 9 of Chapter 2, spiny lobster may be taken with lobster traps under
- 10 a lobster permit issued pursuant to Section 8254.
- 11 (b) Notwithstanding Sections 8660 and 8665, lobster traps may
- 12 be used in any area of the state not otherwise closed to the taking
- 13 of lobsters up to, but not closer than, 75 feet of any private pier,
- 14 wharf, jetty, breakwater, or dock.
- 15 (c) A wire lobster trap shall be built of rectangular wire mesh
- 16 with inside mesh measurement not less than $4\frac{7}{8}$ $1\frac{1}{2}$ inches by $3\frac{7}{8}$

1 ~~3 1/2 inches, the 3 7/8-inch~~ 3 1/2-inch measurement to be parallel to
 2 the floor of the trap. A wire lobster trap shall be fitted with at least
 3 one rigid rectangular escape gap with ~~an inside measurement~~
 4 ~~vertical measurement~~ not less than 2 3/8 inches ~~by at all points and~~
 5 ~~an inside horizontal measurement of not less than 11 1/2 inches.~~
 6 ~~The at all points. The horizontal sides of the escape gap shall be~~
 7 located parallel to, and ~~within two~~ the escape gap within 2 3/8 inches
 8 of the floor on any outside wall of, the rearmost chamber of the
 9 lobster trap and shall be clearly accessible to the lobsters.

10 (d) Notwithstanding subdivision (c), wire may be used to hold
 11 the escape gap in place that reduces the inside vertical or
 12 horizontal measurement of the escape gap specified in subdivision
 13 (c), but only if all of the following requirements are met:

14 (1) The overall diameter of the wire, including any coating on
 15 the wire, shall measure less than 0.176 inches in diameter (the
 16 diameter of 7 SWG gauge wire using the Standard Wire Gauge
 17 (SWG) standard of measurement).

18 (2) A maximum of one wire wrap shall be located on each
 19 vertical side of the escape gap.

20 (3) A maximum of two wire wraps shall be located on the bottom
 21 horizontal side of the escape gap.

22 (4) Wire shall not be used on the top horizontal side of the
 23 escape gap.

24 (5) Each wire shall be tightly wrapped against the inside surface
 25 of the escape gap and shall not pass over the inside surface more
 26 than once. As used in this paragraph, "tightly wrapped" means
 27 no space exists at any point between the wire and the inside surface
 28 of the escape gap.

29 (d)

30 (e) A lobster trap constructed of lath or other material shall have
 31 an opening to allow a means of escape along the full length of one
 32 side of the rearmost chamber. The escape opening shall be of a
 33 spacing of not less than 2 3/8 inches, and the spacing shall be located
 34 parallel to, and ~~within two~~ 2 3/8 inches of, the floor of the lobster
 35 trap.

36 ~~SECTION 1. Section 30825 is added to the Public Resources~~
 37 ~~Code, to read:~~

38 ~~30825. —(a) Except as provided in subdivision (d), the~~
 39 ~~commission shall not file as complete or act upon an application~~
 40 ~~for a coastal development permit for a project on property that is~~

1 subject to an open, existing violation case for which a violation
2 notification letter has been sent, or a cease and desist order,
3 restoration order, or notice of violation has been issued or recorded
4 pursuant to Section 30809, 30810, 30811, or 30812 until the
5 violation has been resolved, as determined by the executive director
6 and consistent with this division.

7 (b) Subdivision (a) does not apply if the executive director
8 determines that the application includes a provision that would
9 fully resolve the violation consistent with this division.

10 (c) Any unresolved dispute between the executive director and
11 an applicant regarding the implementation of this section may be
12 resolved by the commission at a noticed hearing pursuant to
13 subdivision (d) of Section 13056 of Title 14 of the California Code
14 of Regulations.

15 (d) (1) Notwithstanding subdivision (a), the commission may
16 file as complete an application for a coastal development permit
17 for development on a property described in subdivision (a) if the
18 violation is a de minimis violation. If the commission accepts an
19 application to which this subdivision applies, the commission may
20 not take action on the application until the violation has been fully
21 resolved, as determined by the executive director.

22 (2) For purposes of this subdivision, “de minimis violation”
23 means a violation that is so minor in nature that it may be easily
24 resolved through voluntary actions on the part of the property
25 owner.

26 (e) Subdivision (a) does not apply to an action by a local agency
27 that is associated with processing, submitting, certifying, or
28 implementing an amendment to, or original submission of, a local
29 coastal program, public works plan, or component of a local coastal
30 program or public works plan.